

THE OFFICE ACTION

In the Office Action mailed December 8, 2005, the Examiner recorded a terminal disclaimer mailed September 15, 2005 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of Application No. 10/736405.

Claims 1-5, 7, 8, 10, 11 and 17 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,130,174 issued to Hawley et al. (Hawley) in view of U.S. Application No. 2005/0112314 filed by Hamilton et al. (Hamilton), and U.S. Patent No. 4,738,888 issued to Pantaleo et al. (Pantaleo).

Claim 6 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Hawley, Hamilton, and Pantaleo as applied to claim 1, and further in view of U.S. Patent No. 5,874,371 issued to Owen.

Claim 9 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Hawley, Hamilton, and Pantaleo as applied to claim 1, and further in view of U.S. Application No. 2003/0036323 filed by Aliabadi.

Claims 12-16 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Hawley in view of Hamilton, Pantaleo, and U.S. Application No. 2002/0094404 filed by Schottenfeld.

REMARKS

Claims are Patentable over Hawley in View of Hamilton and Pantaleo

With reference to the rejection of claims 1-5, 7, 8, 10, 11 and 17, the Examiner, in the Response to Arguments, asserts that the claims, as presently written, do not teach that the adherent sheet may be repositioned after final application. This is in response to Applicant's argument that Hamilton does not teach that the adherent sheet may be repositioned after final application in Applicant's Amendment A mailed September 15, 2005. However, Applicant respectfully points out that independent claim 1 of the present application is directed toward a "removable, non-slip, non-adhesive covering." The intent is clearly that the covering is non-adhesive so that it can be removed for any purpose whatsoever, without limitation, which would include the purpose of repositioning as clearly described in paragraph 15 of the present application

(see the first line on page 4).

Further, it is a feature of the covering of the present application, as recited in claim 1, that the cover is removable whereas the covering described by Hamilton is not removable. Hamilton is clearly describing a covering which provides a permanent adherence once the covering has been placed in its final position as shown in Figure 5, and as described in paragraph 61 of Hamilton (see lines 12-15 of the first column of page 6).

For the above-stated reasons, Applicant respectfully traverses the Examiner's opinion and submits that Hamilton cannot be combined with Hawley to arrive at the embossed, removable, non-slip, non-adhesive covering as recited in claim 1 of the present application.

The Examiner also asserts that Applicant's arguments with respect to the clear polypropylene sheet of Pantaleo are not persuasive. In the previous Office Action mailed June 16, 2005, the Examiner stated that it would have been obvious to use the clear polypropylene upper sheet of Pantaleo on the laminate of Hawley motivated by a desire to create a laminate that has a desired aesthetic appearance. However, Pantaleo does not teach or fairly suggest that the polypropylene upper sheet is adhered to a film of any sort, but rather only teaches that two heat-sealable plastic sheets are sonically sealed to each other to define a sealed chamber rather than a protective layer adhered to a film as described in paragraph 6 of the present application. Applicant respectfully submits, therefore, that there is no motivation shown for combining the upper sheet of Pantaleo with the laminate of Hawley.

For the above-described reasons, Applicant submits that independent claims 1 and 17 are patentably distinct over the references and, therefore, are in condition for allowance, as are claims 2-11 depending from claim 1.

Claims are Patentable over Hawley in View of Hamilton, Pantaleo and Owen

With reference to claim 6, the Office Action asserts that Hawley, Hamilton and Pantaleo disclose the claimed invention except for the teachings that the scrim is a non-woven scrim. However, for the reasons set forth with respect to independent claim 1, from which claim 6 depends, Applicant respectfully submits that dependent claims 6 is in condition for allowance.

Claims are Patentable over Hawley in View of Hamilton, Pantaleo and Aliabadi

With reference to claim 9, the Office Action asserts that Hawley, Hamilton and Pantaleo disclose the claimed invention except for the teachings that the scrim is a polyester scrim. The Office Action further states that Aliabadi discloses a layer of polyester mesh fabric between layers of polyvinyl chloride. However, none of the other limitations set forth in dependent claim 9 are taught or disclosed in any of Hawley, Hamilton, Pantaleo and Aliabadi. For example, claim 9 includes a limitation for a non-woven nylon scrim and a punctured polyolefin film, none of which are disclosed in any of the above-cited references.

Claims are Patentable over Hawley in View of Hamilton, Pantaleo and Schottenfeld

Independent claim 12 and claims 13-16 depending therefrom are rejected for reasons similar to those stated in the Office Action for rejecting independent claim 1 but, additionally, the Office Action cites Schottenfeld as disclosing a release layer added to the liner. However, for the same reasons as set forth with respect to claim 1 above, namely, with respect to the remaining three limitations of independent claim 12 which are similar to those recited in claim 1, independent claim 12, and claims 13-16 depending therefrom are patentably distinct over the cited references.

Evidence of Commercial Success

Applicant also offers evidence of secondary considerations in this application. A declaration has been submitted under 37 CFR 1.132 which offers evidence of commercial success and long-felt need for embodiments of the instant application. This evidence is indicative of non-obviousness.

All requirements are met for a showing of commercial success. The declaration establishes a clear nexus between the claimed invention and the commercial success. This success is not the result of heavy advertising, but flows from the functions and advantages disclosed by the specification. See MPEP § 716.03. In particular, note that commercial success of the simulated metal shelf coverings and liners introduced on or about 2003 contributed to a significant rise in total liner units shipped; see paragraph 13 of the declaration.

All requirements are also met for a showing of long-felt need. The need has

been recognized and acted upon in the marketplace, and it was not satisfied by another before the introduction by Applicant; see paragraphs 6-9. The invention satisfies the long-felt need. See MPEP § 716.04.

For the above reasons, Applicant requests withdrawal of the § 103(a) rejections.

CONCLUSION

For the reasons detailed above, it is respectfully submitted all claims remaining in the application (Claims 1-17) are now in condition for allowance. Should the Examiner need more information or wish to discuss the present application, Applicant would appreciate the opportunity to assist in moving the case forward to a successful conclusion. In this regard, Thomas Young may be contacted at 216-861-5582.

Respectfully submitted,

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March 1, 2006
Date

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CERTIFICATE OF MAILING

Under 37 C.F.R. § 1.8, I certify that this Amendment is being deposited with the United States Postal Service as First Class mail, addressed to: MAIL STOP AMENDMENT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date indicated below.

	<div>Signature <u>Kathleen A. Nimrichter</u></div>
Date: March 1, 2006	Printed Name: Kathleen A. Nimrichter

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